



The Association of Container Reconditioners

"Responsible Container Management"

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January 28, 1997

Mr. Alan I. Roberts
Associate Administrator for Hazardous Materials Safety
Research and Special Programs Administration
US Department of Transportation
400 7th St., SW
Washington, DC 20590-0001

Re: Association of Container Reconditioner's Petition for Rulemaking

Dear Mr. Roberts:

Pursuant to 49 CFR § 106.31, the Association of Container Reconditioners (ACR) petitions for expedited rulemaking amending § 173.12 (c) of the HMR to apply the existing minimum thickness criteria to packagings reused for the shipment of hazardous wastes. ACR believes that such a rule is necessary to fill a gap in coverage in the HMR and to "ensure that the packaging can withstand the rigors of the transportation environment" [55 Fed. Reg. 52428 (Dec. 21, 1990)].

Section 173.28(b)(4) of the HMR establishes minimum thickness requirements for metal or plastic drums and jerricans that are reused to ship hazardous materials. RSPA articulated its safety rationale for adopting this standard by stating that "the minimums specified are necessary to ensure that plastic drums and jerricans are sufficiently resistant to puncture and abrasion to be suitable for reuse" [55 Fed. Reg. 52429 (Dec. 21, 1990)].

Section 173.12(c) offers unique exceptions for hazardous wastes, waiving the reconditioning and reuse provisions in §173.28 when shipping hazardous waste materials to disposal facilities. As such, the provision does not mandate that reused packaging meet the specifications of the minimum thickness criteria in §173.28(b). It appears that loss of this requirement for the shipment of hazardous waste was an oversight. Hazardous wastes currently may be shipped in any container, regardless of the performance capability of that packaging to withstand the transportation abuses inherent in reuse. The result is that there is a high probability that an accident will occur due to the puncture or abrasion of a lower integrity container during transport.

The exception for hazardous waste packaging was developed before the adoption of performance standards for non-bulk packaging in HM-181. At the time this exception was

implemented, therefore, virtually all drums affected met DOT Specifications, all of which included a minimum thickness provision. Hence, in the original drafting, no need existed to make specific reference to wall thickness.

In HM-181, performance standards replaced detailed design specifications, including minimum wall thickness. So long as it meets the minimum performance criteria for a single trip, a new or remanufactured drum of any wall thickness is authorized for one use. The hazardous waste exception, however, appears to allow additional use of a drum with much lower wall thicknesses. We believe it was an oversight, and certainly not a point we recognized at the time, not to incorporate minimum wall thickness criteria into the hazardous waste exception when adopting HM-181.

ACR urges RSPA to act expeditiously to eliminate this gap in coverage. ACR was the original petitioner for rulemaking in DOT Docket HM-181 that established the minimum thickness requirements in §173.28, and consequently recognizes the importance of this criterion and the necessity of applying it to hazardous waste as well as product shipments. A recent explosion of such a hazardous waste drum at a reconditioner's facility within the industry further highlighted to ACR the need to make the minimum thickness requirements mandatory for the reuse of all drums. The safety concerns articulated by RSPA when it adopted the criteria for hazardous materials transportation, including the need to prevent the accidental release of hazardous materials by ensuring their proper packaging, are identical for the transportation of hazardous waste to disposal facilities. The likelihood of an accident under these circumstances is just as great.

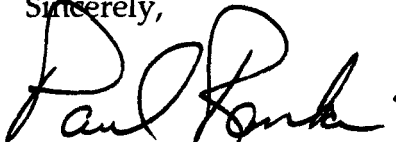
ACR proposes that RSPA add the following provision to § 173.12(b):

- (6) Each package meets the minimum thickness criteria established in § 173.28 (b)(4).

ACR believes that RSPA's prompt formulation of a NPRM proposing the amendment of the HMR to include this language will increase uniformity in coverage and safety under the HMR.

Please do not hesitate to contact me if you have any comments or questions regarding this petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul W. Rankin", with a stylized flourish at the end.

Paul W. Rankin
President